

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**At Wheeling**

**CORNETT MANAGEMENT COMPANY, LLC,  
a foreign corporation,**

**Plaintiff,**

**v.**

**Civil Action No. 5:04-CV-22  
Honorable Frederick P. Stamp, Jr.**

**LEXINGTON INSURANCE COMPANY,  
a foreign corporation, FIREMAN'S  
FUND INSURANCE COMPANY,  
a foreign corporation, BRADY  
RISK MANAGEMENT, INC., a  
foreign corporation, and  
HARTAN BROKERAGE, INC.,  
A foreign corporation,**

**Defendants.**

**PARTIAL DISMISSAL ORDER**

Came this day the Plaintiff, by its counsel, and came the Defendant, Brady Risk Management, Inc., ("Brady Risk") by its counsel; whereupon the Court was advised that a partial settlement has been reached between the Plaintiff and Brady Risk with respect to the issues and claims pending in this case. The partial settlement concludes those claims asserted by the Plaintiff against Brady Risk, with the exception of the reservation of those claims which arise only by virtue of Brady Risk's notice to Fireman's Fund. The reserve claims are only relevant in the event of an appeal of the Court's ruling with respect to coverage under the Fireman's Fund policy with the Plaintiff. Specifically, if the Plaintiff proceeds with an appeal of the Court's ruling with respect to the Fireman's Fund coverage,

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OFFICE OF THE CLERK

and if the appeal results in a finding that coverage is available to the Plaintiff under the Fireman's Fund policy, and if Fireman's Fund continues to assert a defense based upon timely notice, then the Plaintiff's claims against Fireman's Fund for any loss or damage arising from the timeliness of the notice, are preserved.

And whereupon Motion was made that the Court dismiss those claims of the Plaintiff asserted against Brady Risk, except as to those reserve claims identified hereinabove, thereby concluding the involvement of Brady Risk in this case except to the extent of a successful appeal on behalf of the Plaintiff of the Court's ruling as to coverage under the Fireman's Fund policy.

And the Court, hearing no objection to the aforesaid Motion, and believing the same to be proper, is of the opinion to and does hereby **ORDER** that the Plaintiff's claims against Brady Risk should be and the same is hereby **DISMISSED**, with prejudice, except as to the preserved claims of the Plaintiff against Brady Risk for loss or damage arising from the notice issues to Fireman's Fund, in the event the Plaintiff proceeds with an appeal and the appeal is successful to establish that the Fireman's Fund policy with the Plaintiff obligated Fireman's Fund to provide coverage and/or to defend or indemnify the Plaintiff with respect to the claims asserted against it in the *Reynolds* litigation.

In light of the partial settlement reached between the Plaintiff and Brady Risk, Brady Risk will not be involved in the trial of this case, presently set to proceed before the Court on August 14, 2007.

Brady Risk remains a party to this case to the extent of a possible appeal by the Plaintiff of the Court's ruling with respect to coverage for the Plaintiff under the Fireman's Fund policy, and in the event any such appeal is successful to establish that coverage for

defense and/or indemnification existed under the Fireman's Fund policy for the claims asserted against the Plaintiff in the **Reynolds** litigation.

The Clerk of the Court is instructed to forward certified or attested copies of this Order to counsel of record as follows:

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*Counsel for Brady Risk Management, Inc*

Enter this 26<sup>th</sup> day of September, 2007.

  
Honorable Frederick P. Stamp

Prepared By:

/s/ Brent K. Kesner  
Brent K. Kesner (WV Bar #2022)  
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Approved by:

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